S.B. Civil Writ Petition No.2494/06

State of Rajasthan Vs. Krishna Swaroop Verma & Anr.

Date of Order : 19/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. B.K. Sharma, Dy.G.A., for petitioner

Instant petition has been filed against the order of Rajasthan Civil Services Appellate Tribunal, Rajasthan, Jaipur dt.13th July, 2005 [Ann.4] whereby the petitioner has been directed to release all retiral benefits of the respondent employee for the service which he has rendered, within a period of three months.

The facts which have come on record are that respondent herein after attaining the age of superannuation retired from service on 31st December, 1999 and at the relevant time he was facing trial in Sessions Case No.114/97 u/s.7 & 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988. Learned Court after adjudication passed order Ann.1 dt.19th June, 2000 whereby the respondent employee was acquitted from the charge levelled against him and despite acquittal his retiral benefits have not been released. Application was filed before the Tribunal for release of his services benefits which he is otherwise legally entitled for under the rules in view of being acquitted by the competent court of jurisdiction.

Counsel for petitioner submits that the appeal which was filed by the respondent before the Tribunal was time barred and against the order of acquittal passed by the competent court of jurisdiction they have preferred appeal which is pending before this court. In view of its pendency the respondent is not entitled for terminal benefits even if there is order of acquittal in

his favour.

I have considered the submission of the counsel and perused the material on record.

So far as the submission made with regard to delay in payment is concerned, in my opinion, retiral benefits which are with-held by the petitioner is a recurring loss to the respondent, as such his appeal was rightly considered to be in limitation by the learned Tribunal.

So far as next submission made with regard to filing of appeal against the order of acquittal which has been considered to be the basis for depriving the respondent of his legal legitimate retiral benefits under rules, in my opinion, once there is an order of acquittal in favour of respondent employee he becomes entitle for all benefits accrued to him under rules and mere filing of appeal will not deprive him of his legitimate claim available to a retired personnel. I do not find any perversity in the finding recorded which is duly supported by material on record.

Consequently, the writ petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB